

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA)
)
 v.) 1:13CR435-1
)
BRIAN DAVID HILL)

ORDER

This matter comes before the court upon Defendant's pro se Motion to Extend Time to File Appeal (Doc. 55). Defendant attached a Notice of Appeal to his motion (Doc. 55-1).

Defendant was appointed First Assistant Federal Public Defender Eric Placke on December 23, 2013 (Doc. 4). The case was called for sentencing on September 30, 2014, and Placke was allowed to withdraw as counsel for Defendant and sentencing was continued to November 7, 2014. Attorney John Scott Coalter was subsequently appointed to represent Defendant. Defendant's case was called for sentencing on November 7, 2014, however, it was continued to November 10.

Defendant was sentenced on November 10, 2014, to 10 months and 20 days imprisonment, but not less than time served. (Minute entry 11/10/2014.) Defendant Hill was advised by the court at the sentencing hearing that he had the right to appeal the sentence that was imposed. If he chose to appeal, notice of appeal must be filed within 14 days of the entry of judgment.

Defendant was also advised that if you wished to appeal and could not afford the services of counsel, counsel would be appointed to represent him. Judgment was entered November 12, 2014 (Doc. 54). Defendant Hill was released on November 13, 2014. Fed. R. App. P. 4(b)(1)(A) provides that "[i]n a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after the later of: (i) the entry of either the judgment or the order being appealed" Because the Judgment was entered on November 12, 2014, the 14-day period ran on November 26, 2014.

Fed. R. App. P. 4(b)(4) permits this district court to "extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)." This court could therefore extend the time for filing the notice of appeal in this case through December 29, 2014, because of the holidays. However, this court is not able to find a method pursuant to which the time for filing a notice of appeal could be extended to January 12, 2015, as that date extends well outside this court's authority. Defendant's motion is therefore not timely filed.

The court has considered Defendant's motion for extension and finds that the motion must be denied.

IT IS THEREFORE ORDERED that Defendant's pro se Motion to Extend Time to File Appeal (Doc. 55) is **DENIED**.

This the 16th day of January, 2015.

William L. Ostun, Jr.

United States District Judge